

## 1 SENATE BILL NO. 14

2 INTRODUCED BY MCCARTHY, TASH, YOUNKIN

3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE PERIOD FOR SUSPENSION OF  
6 ADJUDICATION PROCEEDINGS DURING NEGOTIATIONS OF FEDERAL INDIAN AND NON-INDIAN  
7 RESERVED WATER RIGHTS; AMENDING SECTIONS 85-2-217 AND 85-2-702, MCA; AND PROVIDING AN  
8 EFFECTIVE DATE."

9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11

12 **Section 1.** Section 85-2-217, MCA, is amended to read:

13 **"85-2-217. Suspension of adjudication.** While negotiations for the conclusion of a compact under part  
14 7 are being pursued, all proceedings to generally adjudicate reserved Indian water rights and federal reserved  
15 water rights of those tribes and federal agencies that are negotiating are suspended. The obligation to file water  
16 rights claims for those federal non-Indian and Indian reserved rights is also suspended. This suspension is  
17 effective until July 1, ~~2005~~ 2009, as long as negotiations are continuing or ratification of a completed compact  
18 is being sought. If approval by the state legislature and tribes or federal agencies has not been accomplished  
19 by July 1, ~~2005~~ 2009, the suspension must terminate on that date. Upon termination of the suspension of this  
20 part, the tribes and the federal agencies are subject to the special filing requirements of 85-2-702(3) and all other  
21 requirements of the state water adjudication system provided for in Title 85, chapter 2. Those tribes and federal  
22 agencies that choose not to negotiate their federal non-Indian and Indian reserved water rights are subject to  
23 the full operation of the state adjudication system and may not benefit from the suspension provisions of this  
24 section."

25

26 **Section 2.** Section 85-2-702, MCA, is amended to read:

27 **"85-2-702. Negotiation with Indian tribes.** (1) The reserved water rights compact commission, created  
28 by 2-15-212, may negotiate with the Indian tribes or their authorized representatives jointly or severally to  
29 conclude compacts authorized under 85-2-701. Compact proceedings must be commenced by the commission.  
30 The commission shall serve by certified mail directed to the governing body of each tribe a written request for

1 the initiation of negotiations under this part and a request for the designation of an authorized representative of  
2 the tribe to conduct compact negotiations. Compact negotiations commence upon receipt of the written  
3 designation from the governing body of a tribe.

4 (2) When the compact commission and the Indian tribes or their authorized representatives have agreed  
5 to a compact, they shall sign a copy and file an original copy with the department of state of the United States  
6 of America and copies with the secretary of state of Montana and with the governing body for the tribe involved.  
7 The compact is effective and binding upon all parties upon ratification by the legislature of Montana and any  
8 affected tribal governing body, and approval by the appropriate federal authority.

9 (3) Upon its ratification by the Montana legislature and the tribe, the terms of a compact must be  
10 included in the preliminary decree as provided by 85-2-231, and unless an objection to the compact is sustained  
11 under 85-2-233, the terms of the compact must be included in the final decree without alteration. However, if  
12 approval of the state legislature and the tribe has not been accomplished by July 1, ~~2005~~ 2009, all Indian claims  
13 for reserved water rights that have not been resolved by a compact must be filed with the department within 6  
14 months. These new filings must be used in the formulation of the preliminary decree and must be given  
15 treatment similar to that given to all other filings."  
16

17 NEW SECTION. **Section 3. Notification to tribal governments.** The secretary of state shall send a  
18 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell  
19 band of Chippewa.  
20

21 NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2003.  
22

- END -